

The FBI: Mr. Gray Is No Longer the Issue

Part 3/27/73

One has an eerie feeling as the confirmation hearings for L. Patrick Gray III to be director of the FBI drone on, that Mr. Gray is disappearing into the distance, less and less an issue, less and less beloved in the White House, less and less a possibility. One has the sense that somewhere off in time and distance, in one way or another, he'll disappear—unnoted and unmourned, even by those who sent him into the smoke and fire in the first place. But, the FBI won't disappear, nor will the questions about it which have been raised by these hearings and by the period of Mr. Gray's stewardship. The trouble is that, though issues of the Watergate investigation and Mr. Gray's involvement in partisanship have been raised and examined, the issues about the bureau and what the Senate wants the bureau to be have still been largely ignored.

This is important because the Congress has, for years, abdicated its oversight responsibilities regarding the bureau and now has, for the first time, an opportunity to figure out what it wants this huge, useful and potentially dangerous police organization to be. The question is whether the Congress will face this large issue or whether it will follow its customary tactic and get lost in the underbrush with all the smaller issues that solve few problems but make big headlines.

The central issue for resolution is control of the bureau. There is little doubt that, except as it was somewhat restrained by Mr. Hoover's peculiar sense of duty and destiny, the bureau was largely out of control during his last days. There is now also very little question that under Mr. Gray's stewardship, the bureau was very much under the political control of the White House during the last presidential campaign. Somewhere between those two extremes lies a real issue to be resolved by thoughtful men, or, in the alternative, there is room for some gimmicky solution which deals with today's realities and problems, but which may create greater problems in the long run. The question is whether the Senate has only the instinct for a gimmick or rather has the heart for a real solution.

The contours of the control issue can be sketched between Mr. Hoover's practices and Mr. Gray's testimony. As Stephen Rosenfeld reported in a recent column, FBI agents conducting FBI tours report that communism was a "pet peeve" of Mr. Hoover and he pursued his obsession with that pet peeve despite ample evidence that organized crime was a more substantial threat to the society than was the ragged remnant of the U.S. Communist Party. Mr. Hoover, in other words, had prejudices which affected the operations of the bureau in very substantial ways and there was no one around who had the power or the courage to tell him that the bureau should operate in other ways.

Mr. Gray, on the other hand, thought he knew where the control lay. He sent raw data on the Watergate burglary investigation to John Dean, the President's counsel, even after—according to Gray's own testimony—he

had reason to know that Mr. Dean had probably lied to the bureau and after he had received advice from an FBI lawyer that his duty was to keep the Attorney General informed on the investigation and that he should not release information without the Attorney General's consent.

Somewhere in this mush of politics and ideology there is a role for Congress. And it is not the gross charade so often played out when Mr. Hoover went up to the Hill to give Rep. John J. Rooney's subcommittee its annual opportunity to pay obeisance to the great man, with no questions asked. It is time for the Congress to determine whether it really wants the FBI to work for the Department of Justice and for the Attorney General.

It is also time for the Congress to deal with a question which is at least as large, if not larger than the last. That is the question of whether the functions of pursuing ordinary criminals should be linked to the tasks of protecting the country from subversion. Even if it is decided that those tasks are appropriately linked, there is the further question of who defines the nature of the subversion and the targets to be pursued. In Mr. Hoover's time, it was Mr. Hoover who made those decisions and it made about as much sense as letting the Joint Chiefs decide by themselves the security and diplomatic issues that underlie our programs for defense. It is time for the Government Operations Committees to get into these questions and for the Appropriations Committees to begin doing their jobs.

And, most of all, it is time for the Senate Judiciary Committee to send signals downtown that it wants a highly professional law enforcement agency to operate in a non-political way with a healthy respect for the rights of American citizens.

There is a powerful temptation, just now—with the memory of Mr. Hoover still looming large in public and private minds and with some real distrust of Mr. Nixon and his administration growing as the result of the plethora of recent revelations—to go for some gimmick or quick fix. But, if the system doesn't work, no gimmick such as a limited term for the director will make it work. And, if the system can be made to work no gimmick is necessary. If the Congress persuades the administration that it intends to be a forceful and responsible participant in this process, then perhaps we can hope that the administration will send up a nomination that will help restore to the bureau its lost dignity and stature.

The nominee should be a lawman of unquestioned ability, integrity and independence and the assumption should be that the job is a career job—if he's good—and that the President will remove a director if he's not. The further assumption should be that Congress will be keeping a careful eye and a restraining hand, through its appropriation powers, on the performance of the FBI—something it lacked the will, or the courage, to do in the Hoover days.